

GENERAL RULES FOR TRIAL OF CASES
BEFORE JUDGE TIMOTHY D. DeGIUSTI

PLEASE READ CAREFULLY PRIOR TO TRIAL

1. Be on time for each court session. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance for someone to handle them for you or to have such matters continued.

2. Exhibits must be prepared as set out in LCvR39.4. Exhibits are to be placed in three-ring binders separated by tabs. The parties shall provide the original and two copies of the exhibit notebooks to the Court on the first day of trial, unless ordered to do so earlier by the Court. Witness and Exhibit lists must be submitted as required by LCvR43.1.

3. Stand whenever you address the Court for any purpose, including making objections. Address remarks to the Court when on the record; do not address the deputy or law clerk, the reporter or opposing counsel. If you want to speak to opposing counsel in the presence of the jury, seek permission to talk to him or her off the record. All requests to reread questions or answers or to place exhibits in front of the witnesses shall be addressed to the Court.

4. While the Court is in session, do not leave counsel tables to confer with anyone, including investigators or witnesses, in the back of the courtroom or outside the courtroom unless permission is granted in advance.

5. When opposing counsel has the floor, do not distract the Court or jury by conversing audibly with your client or co-counsel, ostentatiously passing notes, rummaging through papers or other conspicuous conduct. Counsel should not by facial expression, nodding or other conduct, exhibit any opinion, adverse or favorable, concerning any testimony that a witness is giving. Counsel should admonish his or her client and witnesses likewise to avoid such conduct.

6. In your opening statements to the jury, do not argue the case and do not discuss the law. Confine yourself to a summary of the important facts. Address time allowance for opening statements with the Court prior to the start of trial.

7. Stand when you question witnesses. Counsel with physical disabilities will be excused from this requirement. Do not pace about the courtroom when questioning witnesses; remain at the lectern unless given permission to approach the witness, diagram, bench or the like. When permission is given, return to the lectern when the purpose for which permission was granted is finished. Except for children, address witnesses by their surnames, for example, Mrs. A, Sergeant B, or Doctor C.

8. Do not instruct a witness you are questioning regarding the responsiveness of an answer; if you believe an answer is unresponsive, the questioning lawyer may make an appropriate objection.

9. Never assert your personal opinion as to the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused. Likewise, counsel should never assert personal

knowledge of a fact not in evidence.

10. Where a party has more than one lawyer, only one may conduct the direct or cross-examination of a given witness, and make objections during that witness's testimony.

11. If a witness is on the stand at the time of a recess or adjournment, have the witness return to the stand and be ready to proceed when Court resumes.

12. Do not run out of witnesses; ensure that your next witness is standing by when needed.

13. Whenever, in your opinion, a particular exhibit is admissible, it should be moved into evidence. The practice of holding all exhibits until the end of a session or the end of your case and moving them all in is not favored. To the extent parties have agreed upon the admission of exhibits or the foundational requirements for certain exhibits, such exhibits, upon request, may be deemed admitted pretrial subject to the exhibit actually being used or referred to by a witness during trial.

14. When using an exhibit, counsel should refer to it by number. Witnesses should be asked to do the same.

15. The Court does not favor taking time to pass an exhibit among the jurors for viewing when it is admitted. This procedure should be used sparingly and reserved for truly significant exhibits. Moreover, when this procedure is permitted by the Court, counsel should have a copy of the exhibit for each juror (if it is capable of reproduction).

16. When you object in the presence of the jury, make your objection brief and to the point. State only your objection and the legal ground for the same. Do not argue the objection or the ruling of the Court in the presence of the jury.

17. Do not make motions, for example, motions for mistrial, in the presence of the jury; such motions may be raised at the bench upon permission.

18. In closing argument of jury cases, do not appeal to any juror to put himself or herself in the position of a party. Closing arguments, as with other presentations, will be made from the lectern.

19. Do not bring food or beverage into the courtroom. Water is provided at counsel table.

20. If you have reason to anticipate that any question of law or evidence is particularly difficult, give the Court as much advance notice as possible.

Thank you for your cooperation.

TIMOTHY D. DeGIUSTI
UNITED STATES DISTRICT JUDGE